IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.5699 OF 2005

1. Sitaram Parshuram Dangarkar.
Gulab Dattu Dangarkar. ... Applicants.
Versus.
The State of Maharashtra. ... Respondent.

Shri Indrajeet Joshi for the Applicants.

Shri A.S.Gadkari, A.P.P. for the Respondent.

CORAM : ABHAY S. OKA, J.

DATED : 9th Sept., 2005.

P.C.:

1. Heard the learned Counsel for the Applicants and the learned A.P.P. for the State.

2. The learned Counsel for the Applicants submitted that the Applicants are entitled to be released on bail on the ground of parity on the basis of order dated 19th July 2005 passed by this Court in Criminal Application No.3937 of 2005 and Criminal Application No.3865 of 2005. The learned A.P.P. submitted that the Applicants are not entitled to seek parity in view of paragraph 9 of the said order passed by this Court which records reasons for refusing bail to one of the co-accused.

3. In the present case the allegation against the Applicant is as regards assault on one Sunil Kathawale. He suffered three fractures and two simple injuries.

The material produced on record shows that atleast two other accused persons have allegedly assaulted the same victim by using swords. The reason given by this Court to deny bail to one of the co-accused was that as a result of assault made by the said co-accused one person suffered fracture of frontal bone requiring the treatment of neurologist. In the present case the fractures are not shown to be on vital part of the body. In my view the case of the Applicant is not different from the case of the Applicants Nos.1 and 3 in Criminal Application No.3862 of 2005. Hence the Applicants are entitled to be enlarged on bail by reason of parity.

4. Hence the following order is passed:

(i) The Applicants shall be released on bail in connection with C.R.No.105 of 2004 registered with Panvel Taluka Police Station, Panvel, subject to furnishing personal bond of Rs.10,000/- each with one or two local sureties in the like amount.

(ii) The Bail is granted subject to condition that the Applicants shall attend the Panvel Taluka Police Station, Panvel, once in a fort-night till completion of trial.

(iii) The Bail is granted subject to condition that the Applicants shall not directly or indirectly, made any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

(iv) The Applicants shall cooperate with the learned trial Judge for expeditious disposal of the trial. Any attempt by the Applicants to delay the trial may be a ground for cancellation of bail.

(v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

(vi) Criminal Application is disposed of in the above terms.

Judge.